

**Before the
UNIVERSAL SERVICE ADMINISTRATIVE COMPANY
Washington, D.C. 20005**

In the Matter of)	
)	
Lifeline and Link Up Reform)	WC Docket No. 11-42
and Modernization)	
)	
Telecommunications Carriers Eligible)	WC Docket No. 09-197
For Universal Service Support)	
)	
Connect America Fund)	WC Docket No. 10-90
)	

**LIFELINE CONNECTS COALITION COMMENTS ON
THE DRAFT LIFELINE NATIONAL ELIGIBILITY VERIFIER PLAN**

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SUMMARY

The Federal Communications Commission (FCC or Commission) has recognized that the Lifeline enrollment process can be “complex” and “burdensome” and that the Lifeline Modernization Order, which calls for the development of the National Lifeline Eligibility Verifier (National Verifier), was designed to “streamline eligibility verification for enrollment and certification.” As such, a key principle from the Lifeline Modernization Order is that the National Verifier should not be less efficient, less effective, less streamlined or more complex or burdensome on eligible consumers or Lifeline service providers than the enrollment and recertification processes that are in place today.

Unfortunately, the Universal Service Administrative Company’s (USAC’s) Draft National Verifier Plan (the Draft Plan) proposes features that would inhibit, rather than encourage, more efficient and effective enrollment and recertification. In these comments, the Coalition provides feedback on five targeted issues that will improve the efficient and effective functioning of the National Verifier while preserving the successful elements of today’s Lifeline enrollment and recertification processes for eligible low-income consumers and Lifeline service providers.

First, the National Verifier must include real-time review of enrollments, including where manual review of proof of eligibility is necessary. Second, the National Verifier should involve service providers early and often in the recertification process. Third, the National Verifier’s Tribal residency verification should include collection of the Tribal residency certification at enrollment and a safe harbor for service providers, and USAC should cease wasteful and unnecessary auditing of service providers. A safe harbor from enforcement and audits should extend to all situations where the National Verifier or other third party entity is making eligibility

determinations rather than the service providers (which does not seem controversial, but is not the practice today). Fourth, service providers should continue to be able to facilitate dispute resolutions for applicants in real-time at enrollment as they do today rather than requiring applicants to separately submit documentation by mail or web portal. Fifth, the National Verifier should permit service providers to correct their snapshot totals when they certify their subscriber lists to USAC, and should afford service providers flexibility to make corrections and revisions to their reimbursement requests, including upward adjustments in limited, appropriate circumstances.

Without implementing these key principles, the Lifeline enrollment and recertification processes conducted by the National Verifier will be less efficient, less effective, less streamlined and more complex or burdensome on eligible consumers and Lifeline service providers than the enrollment and recertification processes that are in place today, which is contrary to the Commission's directive in the Lifeline Modernization Order.

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The Lifeline Connects Coalition (the Coalition),¹ by and through its attorneys, hereby responds to the Federal Communications Commission's (FCC's or Commission's) December 1, 2016 Public Notice² seeking comment on the Draft National Verifier Plan (the Draft Plan)³ that the Universal Service Administrative Company (USAC) submitted to the Commission on November 30, 2016 pursuant to the requirements of the Lifeline Modernization Order.⁴

¹ The members of the Lifeline Connects Coalition are American Broadband & Telecommunications Company, Blue Jay Wireless, LLC, i-wireless LLC, and Telrite Corporation.

² *See Wireline Competition Bureau Announces Submission of the Draft National Verifier Plan by USAC Pursuant to the Lifeline Modernization Order and Provides Information on Submitting Comments to USAC*, WC Docket Nos. 11-42, 09-197, 10-90, Public Notice, DA 16-1327 (Dec. 1, 2016).

³ *See Universal Service Administrative Company, Draft Lifeline National Verifier Plan* (Nov. 30, 2016), available at <http://www.usac.org/res/documents/li/pdf/nv/Draft-National-Verifier-Plan.pdf> (Draft Plan).

⁴ *See Lifeline and Link Up Reform and Modernization, et al.*, WC Docket 11-42, et al., Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (Lifeline Modernization Order or Order).

The Draft Plan notes that the FCC has recognized that the Lifeline enrollment process can be “complex” and “burdensome” and that the Lifeline Modernization Order, which calls for the development of the National Lifeline Eligibility Verifier (National Verifier), was designed to “streamline eligibility verification for enrollment and certification.”⁵ As such, a key principle from the Lifeline Modernization Order is that the National Verifier should not be less efficient, less effective, less streamlined or more complex or burdensome on eligible consumers or Lifeline service providers than the enrollment and recertification processes that are in place today. In these comments, the Coalition provides feedback on five targeted issues that will improve the efficient and effective functioning of the National Verifier while preserving the successful elements of today’s Lifeline enrollment and recertification processes for eligible low-income consumers and Lifeline service providers.

First, the National Verifier must include real-time review of enrollments, including where manual review of proof of eligibility is necessary. Second, the National Verifier should involve service providers early and often in the recertification process. Third, the National Verifier’s Tribal residency verification should include collection of the Tribal residency certification at enrollment and a safe harbor for service providers, and USAC should cease wasteful and unnecessary auditing of service providers. A safe harbor from enforcement and audits should extend to all situations where the National Verifier or other third party entity, rather than the service providers, is making eligibility determinations (which does not seem controversial, but is not the practice today). Fourth, service providers should continue to be able to facilitate dispute

⁵ See Draft Plan at 4. The Lifeline Modernization Order determined that the National Verifier should “add to the efficient administration of the Lifeline program” and that a key objective for the National Verifier is “improving the enrollment experience.” See Lifeline Modernization Order ¶¶ 126, 128.

resolutions for applicants in real-time at enrollment as they do today rather than requiring applicants to separately submit documentation by mail or web portal. Fifth, the National Verifier should permit service providers to correct their snapshot totals when they certify their subscriber lists to USAC, and should afford service providers flexibility to make revisions to their reimbursement requests, including upward adjustments in limited, appropriate circumstances.

Without implementing these key principles, the Lifeline enrollment and recertification processes conducted by the National Verifier will be less efficient, less effective, less streamlined and more complex and burdensome on eligible consumers and Lifeline service providers than the enrollment and recertification processes that are in place today, which is contrary to the Commission's directive in the Lifeline Modernization Order.

I. The National Verifier Must Include Real-Time Review of Enrollments, Including Where Manual Review of Proof of Eligibility Is Necessary

The primary function of the National Verifier will be to verify eligibility for Lifeline applicants by checking available eligibility databases (automated verification) and reviewing proof of enrollment in federal and Tribal programs (manual verification), both of which must be conducted in real-time. Unfortunately, while the Draft Plan sets the expectation that the National Verifier will conduct “near real-time automated eligibility verification,”⁶ the next bullet on the same slide regarding manual reviews does not say “near real-time” and another slide indicates that manual review will be “as close to real time as possible while considering cost and [Business Process Outsourcing (BPO)] capabilities.”⁷ Further, in the slides discussing the Request for

⁶ See Draft Plan at 78 (requiring “[n]ear real-time automated eligibility verification,” but containing no such requirement for manual reviews).

⁷ See *id.* at 33 n.1 (“SLA for manual review to be determined; pursuing as close to real time as possible while considering cost and BPO capabilities”).

Proposal (RFP) for the National Verifier’s BPO entity that will conduct the manual eligibility reviews, the Draft Plan makes no mention of a real-time review requirement.⁸ The Final National Verifier Plan (Final Plan) should require both automated and manual eligibility verifications to be conducted in real-time, which the vast majority of wireless ETCs do today. To that end, the National Verifier BPO RFP must seek bids that include a real-time eligibility review option and ensure that real-time review is available at the time when the National Verifier comes online in each state; not at the end of the development and transition phases.⁹

Real-time enrollment is essential to preserve low-income consumers’ dignity by providing equality of consumer experience between low-income and non-low-income consumers. Average non-low-income consumers do not expect to have to wait hours or days after sign-up to receive a wireless device and/or start receiving service, and neither should low-income consumers. The failure to require real-time verification as an option through the National Verifier would undermine the dignity of low-income consumers, and for that reason USAC should clarify in the Final Plan that the National Verifier will review eligibility in real-time, whether through automated means (databases) or manual review, and the BPO RFP should reflect that goal.

Moreover, the lack of real-time verification also would undermine one of the central goals of the modernization process: promoting the deployment of Wi-Fi-enabled smartphones.¹⁰ Specifically, the lack of real-time eligibility verification would limit the ability of or incentives

⁸ See *id.* at 63, 71 (discussing a Q1 2017 RFP for the BPO to handle manual enrollments).

⁹ See *id.* at 88 (establishing a development and transition phases for “operations capacity management” that extends from December 2016 – December 2019, after the verifier has come online in all states).

¹⁰ See Lifeline Modernization Order ¶¶ 367-78.

for ETCs to distribute advanced devices and initiate service at the point of consumer interaction. Before handing out a smartphone at the time of enrollment, an ETC must be sure that the prospective customer is eligible for Lifeline service. If a customer walks away from an enrollment event with a phone, but is later determined to be ineligible, the ETC cannot recover the value of the phone over time and would not have the means to track down the ineligible applicant to reclaim the phone. Such losses could result in ETCs deciding not to provide handsets in person at the time of enrollment, which would treat low-income consumers as inferior compared to non-low-income consumers who expect to walk away from their purchase of communications services with an activated device. Further, shipping phones to subscribers—a significant expense for service providers—would impact the service offerings and devices that can be provided within the business model.

Finally, the Final Plan should require real-time manual review to be in place at the time that it launches the National Verifier in each state. In the Draft Plan, USAC indicates that the National Verifier should “use [a] flexible BPO staffing model to scale capacity for manual reviews as necessary” but sets the development and transition phases from December 2016 to December 2019.¹¹ It is one thing for the transition phase to stretch that long because December 2019 is when all of the states have to be in place, but the development phase for the BPO staffing for manual reviews for the states in place cannot take that long. The BPO must be able to conduct real-time manual reviews in each state as they come online with the National Verifier during the transition phases.

¹¹ See Draft Plan at 88, n.1 (noting that the development and transition phase—including building capacity for manual reviews—will continue from December 2016 until December 2019).

II. The National Verifier Must Involve Service Providers Early and Often in the Recertification Process

Ensuring a smooth and effective recertification process will be critical to the success of the National Verifier. To do so, USAC must involve service providers early and throughout the process, provide itself with the full 150-days that the Commission permits to conduct recertification and properly leverage the benefit transfer opportunity to recertify subscribers. Unfortunately, USAC's current proposal appears to do exactly the opposite: only including service providers at the point when the subscriber is de-enrolled from NLAD, cutting short its window for recertifying customers and missing the recertification opportunity at benefit transfer.¹² To ensure that the National Verifier effectively conducts recertification, the National Verifier should (1) directly involve service providers early in the recertification process; (2) take full advantage of the 150-day window allowed for recertification through multiple recertification attempts; and (3) properly leverage subscriber-provider interactions during the benefit transfer process to conduct recertification.

A. The National Verifier Should Directly Involve Service Providers Early in the Recertification Process

First, the National Verifier should involve service providers early in the recertification process, which will improve program efficiency and reduce burdens on eligible subscribers. Under the Draft Plan, at least 90 days before the service initiation anniversary, NLAD will send a list of subscribers to be recertified to the Lifeline Eligibility Database (LED) for processing, and then the LED will verify eligibility with available automated data sources.¹³ For subscribers that cannot be recertified through an automated data source, the Draft Plan envisions a process of

¹² *See id.* at 38.

¹³ *See id.*

sending self-certification letters to the subscribers, with outreach through phone calls, texts messages, and other means.¹⁴ The Draft Plan does not contemplate involving the service providers in the recertification process until Stage 6 – de-enrollment. The proposed process would dramatically increase subscriber burdens while decreasing successful recertification results.

Service providers play an essential role in the recertification process based on their established relationships with their customers. Service providers today invest heavily in direct customer relationships and have an incentive to ensure that eligible consumers (and no others) remain subscribed to the Lifeline program. Service providers also have numerous effective means of contacting subscribers, including through phone calls, text messages, online portals, kiosks, IVR platforms, hot-lining and more to mitigate the chances that eligible consumers are denied benefits due to recertification failure. Service providers also have information from subscribers regarding their preferred method of communications, which can change over time.¹⁵ For these reasons, customers are more likely to respond to recertification requests from their carrier—a known and trusted entity with whom the subscriber has an established direct relationship—than from an unknown third-party verification organization.

¹⁴ *See id.* It is not clear whether the National Verifier’s recertification process will include the requirement that subscribers retain or recall a PIN to recertify. Such a requirement is overly burdensome and likely to negatively impact the successful recertification rate. ETCs generally require the subscriber to confirm two pieces of personal information to authenticate his or her identity for recertification. The Final Plan should provide further details about the plan for this outreach including appropriate staffing levels.

¹⁵ It appears that the National Verifier will also attempt to collect subscribers’ preferred communications method (*see* Draft Plan at 35), but it is unlikely that the National Verifier will be as successful as service providers at keeping such preferences updated, since service providers have necessary and constant interaction with their subscribers and no method of contacting the National Verifier will be as simple as dialing 611, which wireless subscribers can do today to contact their service provider.

Many service providers experience recertification rates of 90 percent or higher, while USAC only achieves recertification success rates at 70 percent (almost entirely for wireline providers)¹⁶ and the California LifeLine Administrator, which is currently the best comparison to what the National Verifier will do, achieves a paltry 25 percent recertification rate. If we assume, charitably, that the National Verifier can achieve a 45 percent recertification rate when wireless subscribers are included (compared to providers' current 90 percent recertification rates), that would mean twice as many unnecessary de-enrollments and likely re-enrollments. The National Verifier should collect data on the number of subscribers that fail to recertify and then re-enroll within 30 days, 60 days or 90 days to understand whether its recertification methods are failing to successfully recertify eligible subscribers.

To preserve the essential role of service providers in the recertification process, the National Eligibility Verifier should notify service providers if automated data sources cannot confirm Lifeline eligibility through automated data sources. At that point, service providers can engage their customers to facilitate the recertification process through the many successful mechanisms providers they have at their disposal. USAC and service providers could also create new ways of leveraging the National Verifier to facilitate the recertification process. For example, service providers' customer service representatives could connect recertifying customers through to a National Verifier interactive voice response (IVR) system for

¹⁶ This success rate, while laudable, is primarily achieved on behalf of wireline Lifeline providers whose customers are much more likely to respond to letters sent to their address of record. Wireless subscribers are different and much less likely to respond to letters. USAC recognizes the value of service providers in the recertification process, and we understand that it has explored both co-branded mail and the use of an Application Programming Interface (API) for the National Verifier to permit service providers to conduct for the National Verifier that could be used for re-enrollment.

recertification, or permit subscribers to submit recertification forms to the National Verifier through an API with the service providers.

B. The National Verifier Should Take Full Advantage of the 150-Day Window Allowed and Use Multiple Recertification Attempts

Second, USAC should give itself, service providers and the National Verifier the maximum amount of time possible to contact subscribers who could not be automatically recertified using available databases to recertify “manually.”¹⁷ In the Draft Plan, USAC proposes to start processing recertifications 90 days prior to the anniversary of a subscriber’s service initiation date.¹⁸ However, the FCC’s Wireline Competition Bureau authorizes USAC (and currently service providers) to conduct recertification beginning 150 days before the anniversary of the subscriber’s service initiation date.¹⁹ There is no compelling reason for USAC or the National Verifier to delay beginning the recertification process. Doing so will only make it more difficult to effectively reach out to Lifeline customers and increase the likelihood that eligible customers will fail to respond. As above, many of these customers who are eligible, but for one reason or another fail to respond and lose their Lifeline benefit, will ultimately seek to re-enroll in Lifeline, imposing added costs on the National Verifier and service providers.

Further, to maximize the opportunity of the 150-day recertification window, the National Verifier should conduct multiple checks of the automated databases on a rolling basis (such as every 30 days) to see if a subscriber can be automatically recertified. USAC should consider

¹⁷ See *Wireline Competition Bureau Provides Guidance on Rolling Recertification Pursuant to the Lifeline Modernization Order*, WC Docket Nos. 11-42, 10-90, 09-197, Public Notice, DA 16-1227 at 3 (rel. Oct. 27, 2016) (Rolling Recertification Guidance).

¹⁸ See Draft Plan at 38.

¹⁹ See Rolling Recertification Guidance at 2-3.

when the underlying databases are updated (real-time versus batch uploads), when determining the best timing for subsequent eligibility checks within the 150-day window. The cost to the National Verifier to conduct additional checks should be marginal, and will generate cost savings in outreach efforts and for the process as a whole. Multiple automatic eligibility checks will further allow USAC and service providers to concentrate resources on reaching those subscribers who cannot be automatically recertified.

C. The National Verifier Should Leverage Subscriber-Provider Interactions During the Benefit Transfer Process to Conduct Recertification

USAC and the National Verifier should leverage the benefit transfer process to recertify subscribers, which is essentially an efficiency that is already utilized today. Under the Draft Plan, “if the consumer consents,” the National Verifier will perform recertification *after* a successful benefit transfer.²⁰ However, a subscriber will have interactions with both of his or her current and new service providers throughout the benefit transfer process. As a result, there is no reason to wait until after the transfer process to conduct recertification. We recommend that USAC build into the National Verifier the ability to conduct a recertification during the transfer process.

Specifically, service providers should be able to see in NLAD when a transferring subscriber will need to be recertified, which will allow providers to confirm whether a subscriber is within the 150-day recertification window and whether the National Verifier has been able to automatically recertify the subscriber. This visibility will help to prevent excessive churn, and the risk that the new provider or the National Verifier may not have time to collect a recertification form from a new subscriber before the subscriber must be de-enrolled. If the

²⁰ See Draft Plan at 39.

subscriber's recertification date is within the 150-day window, the National Verifier should have already done an automatic check, and if the subscriber has not been automatically recertified, the new service provider should have the opportunity to inform the subscriber they must recertify to maintain their benefit, and collect a recertification form to transmit to the National Verifier (much like service providers will do with enrollment forms). Indeed, benefit transfers today already count as a recertification. USAC should revise the Draft Plan by inserting a step at the beginning of the benefit transfer process in which the new service provider checks NLAD for the applicant's recertification date and recertification status. If the applicant has not recertified and is within the 150-day recertification window, the benefit transfer process should include a recertification of eligibility.²¹

This change would benefit consumers and relieve the recertification burden on the National Verifier for many subscribers. The Commission has recognized that when service providers have confidence that they will be able to serve a subscriber for an extended period, it allows them to deliver high-quality Lifeline service.²² If during a benefit transfer service providers are not able to see when the incoming subscriber needs to be recertified, or are unable to effectively participate in the recertification process, it will be harder for service providers to make investments in high-quality Lifeline offerings. Additionally, if the National Verifier does not leverage the customer-service provider interactions in the benefit transfer process, it will leave both USAC and service providers chasing after the subscriber to complete the

²¹ This initial look up should not require any separate subscriber consent because the subscriber already consents to the new service provider checking the NLAD and National Verifier for eligibility and status through the enrollment process.

²² See Lifeline Modernization Order ¶ 389.

recertification. Subscribers likely will be confused about the need to complete another very similar form after they have just completed a Lifeline application form to switch providers.

Together, these three revisions to the Draft Plan—directly involving service providers early and often in the recertification process, exploiting the full 150-day window with multiple recertification attempts, and leveraging subscriber-provider interactions during the benefit transfer process—will help promote a more cost-effective and streamlined recertification process that preserves the benefits of the current subscriber-led recertification while improving on perceived drawbacks of the existing system.

III. The National Verifier’s Tribal Residency Verification Should Include Collection of the Tribal Residency Certification at Enrollment and a Safe Harbor for Service Providers

While the Lifeline Connects Coalition supports the Draft Plan’s proposal for the LED to confirm a Tribal applicant’s address using an (as-yet undefined) address verification tool,²³ USAC should revise the process to collect a Tribal self-certification during the enrollment process rather than attempting to collect it by mail after the enrollment. Additionally, the final National Verifier plan must make clear that service providers will have a safe harbor for Tribal residency and other determinations made by the National Verifier and USAC should cease wasteful and unnecessary auditing of Lifeline service providers.

A. The Coalition Supports the Use of a Tribal Address Verification Tool, but the Tribal Applicant Certification Should Be Collected During the Real-Time Enrollment Process and Not Later by Mail

The method of enrolling Lifeline applicants in an enhanced Tribal service plan currently set forth in the Commission’s rules is limited to an applicant self-certification of residency on

²³ See Draft Plan at 36.

federally recognized Tribal lands.²⁴ The self-certification is collected as part of the enrollment process and is currently included in the Lifeline application form along with several other important certifications. The rules do not provide for a verification of that Tribal residency. As a general matter, however, the Coalition supports the National Verifier checking a Tribal applicant's eligibility for the enhanced Tribal subsidy against an FCC-approved map of Tribal areas because of the potential for enforcement actions despite the limits of the Commission's rules. This check is not discussed in the Lifeline Modernization Order,²⁵ but could help limit waste, fraud and abuse by confused or ill-intentioned applicants. Importantly, however, at the end of the verification, an applicant still must be able to certify to residency on Tribal lands and the National Verifier must accept that certification barring a change in the applicable Commission rules.

Despite these positive aspects of the Draft Plan, the Coalition is concerned that the self-certification process outlined is unrealistic, will impose burdens on Tribal applicants that are not currently included in the enrollment process and will experience a low-rate of success. The Draft Plan proposes that if the National Verifier cannot automatically verify an applicant's residence on Tribal lands through an "address check," USAC will mail him or her a Tribal residence verification form to complete and submit to the National Verifier.²⁶ First, this process adds a step that does not exist during current Lifeline enrollments. The Tribal residence self-

²⁴ See 47 C.F.R. § 54.410(d)(3)(iii) ("If the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, [the applicant is required to certify under penalty of perjury that] he or she lives on Tribal lands, as defined in 54.400(e)").

²⁵ See 47 CFR §§ 54.410(b) – (d); *see also* Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training, WC Docket No. 11-42, et al. Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11, ¶ 166 (2012).

²⁶ See Draft Plan at 36.

certification currently is collected as part of the standard Lifeline enrollment application. The Draft Plan proposes to remove that certification from the application and handle it separately by mail, which USAC knows is the least successful method of communicating with Lifeline applicants and subscribers. USAC's own experience with recertification has shown that mailing a form that consumers will need to complete and return to USAC is unlikely to achieve a high return rate. Additionally, Tribal lands often include descriptive addresses or addresses not found in the available AMS or Melissa databases, which raises concerns that the form may fail to reach its intended recipient. The Draft Plan does not explain why the Tribal residence certification, which is included in 54.410 with half a dozen other certifications has been singled out to be removed and handled separately by mail rather than as part of the standard enrollment process.

To improve the Tribal certification process, the National Verifier should leverage the subscriber's interaction with the service provider to maximize efficiency and effectiveness. Specifically, even if the goal is to separate out the Tribal certification from the rest of the application, the National Verifier should perform the Tribal address check in real-time, and, if required, inform the service provider that the applicant must complete a Tribal residency certification. This could be an electronic form collected from the applicant by the service provider at the time of enrollment using the National Verifier's API so that Tribal applicants are not singled out for a burdensome mail processes. The self-certification should be accepted over any determination made by the National Verifier's address check unless and until the Commission's rules change. In this way, USAC would preserve the existing process while layering on the address check.

Further, the Commission has recognized that Tribal communities remain underserved, and that universal service support has a vital role in providing telecommunications services to

Tribal lands.²⁷ If the Draft Plan is implemented as proposed, not only will Tribal applicants be uniquely burdened in the application process, but potentially legitimate Tribal residents likely will not receive the enhanced plans or devices to which they are entitled. If a Lifeline applicant's residence on Tribal lands is verified by the LED, the service provider will offer the Tribal subscriber enhanced service offerings (more minutes, texts and/or data) and potentially an enhanced device (e.g., a higher end smartphone potentially with hotspot capability at no cost). However, if a Tribal resident's address cannot be verified by the LED at the time of enrollment, the service provider likely will not provide the applicant with the enhanced services and device. The applicant would have to mail back a Tribal residence certification form to the National Verifier to receive the enhanced services, but will likely already have been provided a standard device at enrollment.

B. Service Providers Should Receive a Safe Harbor for Tribal Residency and Other Determinations Made by the National Verifier and USAC Should Not Conduct Wasteful and Unnecessary Auditing of Lifeline Service Providers

Regardless of the approach that USAC ultimately adopts to Tribal residency and other verifications, if the National Verifier is going to make determinations about subscriber eligibility, service providers must have an explicit safe harbor from audit and enforcement based on those determinations. Although sadly the Commission's rules do not provide an explicit safe harbor, the Commission clearly intended in the Lifeline Modernization Order to shift responsibility for eligibility determinations to the National Verifier and away from service providers. The Commission stated in the Order that "[b]y adopting the National Verifier, the risk of enforcement actions against providers for eligibility related issues will decline as the National Verifier takes

²⁷ See Lifeline Modernization Order ¶ 206.

on the risk of determining eligibility for subscribers” and “Lifeline providers will not be required to retain eligibility documentation for subscribers who have been determined eligible by the National Verifier.”²⁸

Therefore, USAC should not be auditing service providers for decisions made by the National Verifier. For example, if the LED’s Tribal address verification tool falsely confirms that an applicant’s address is on Tribal lands, the service provider should not be audited on that determination or be responsible for that decision in an enforcement action. Similarly, if the address verification tool falsely fails to confirm an applicant’s residence on Tribal lands, the service provider should not be responsible to the applicant in any complaint proceeding.

Further, especially once the National Verifier is in place making eligibility determinations, USAC must cease wasteful and unnecessary audits of Lifeline service providers and instead conduct purposeful audits pursuant to clear guidance to service providers. There are several examples of current wasteful and unnecessary auditing of service providers for eligibility determinations that are not made by the service providers, which raise fears that USAC will continue to audit enrollment determinations that are made by the National Verifier, such as the Tribal address verification.

The first and most egregious example is USAC’s decision to continue to conduct Payment Quality Assurance (PQA) audits for intracompany duplicate subscribers that have passed the NLAD duplicates check. USAC is currently still conducting PQA audits of subscriber lists and applying algorithms to look for duplicates even among subscribers that were enrolled in the NLAD and determined at the time not to be duplicates. USAC is obviously applying different definitions of a duplicate in the NLAD and in the PQA audits and labeling

²⁸ Lifeline Modernization Order ¶¶ 130, 151.

alleged duplicates as instances of improper payments, which it then attempts to collect from the service providers. Therefore, service providers have no comfort that USAC will not audit its own National Verifier eligibility determinations years from now, decide that it made some mistakes and seek to recoup the payments made from the service providers. The final National Verifier plan must make explicitly clear that such audits will not be conducted.

A second example is USAC audits of Lifeline enrollments in California, which not only has opted out of the NLAD and makes its own decisions regarding duplicates, but also has an Administrator that makes all Lifeline eligibility determinations. Service providers should have been safe in assuming that they would not be audited by USAC regarding California Lifeline enrollments, but once again USAC sees nothing wrong with auditing service providers for eligibility determinations made by a third party Lifeline Administrator such as Xerox in California. It remains to be seen whether USAC will hold service providers financial responsible for any eligibility determinations made by the California Lifeline Administrator with which USAC does not agree, but such an outcome would be consistent with the PQA process described above.

Rather than conduct wasteful and unnecessary audits, USAC should provide clear guidance to service providers and then audit service providers only on the actions they take and decisions they make. For example, the Commission's Lifeline recordkeeping rule states only that ETCs must "maintain records to document compliance with all Commission and state requirements governing the Lifeline . . . program for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request."²⁹ No ETC knows what "records to document compliance" means with respect to each requirement of the

²⁹ 47 C.F.R. § 54.417(a).

rules and USAC provides very little if any guidance regarding such documentation. In fact, USAC has changed the documentation it will accept without providing advanced guidance. USAC used to accept subscriber invoices as records to demonstrate the revenues that ETCs forgo in providing Lifeline services pursuant to section 54.407(e) of the rules. Recently USAC decided that it would no longer accept such invoices, but rather than releasing guidance to the industry announcing this policy change and listing what documentation it would accept so that ETCs would know what to retain or request from underlying or intermediary carriers, the Administrator simply reflected this policy shift in ongoing audits, leaving ETCs ill-prepared and scrambling.

In completing the Final Plan, USAC should clarify what aspects of the enrollment and recertification processes will be subject to audit of service providers and provide clear guidance regarding the documentation that should be retained to demonstrate compliance with each aspect. Otherwise, many potential new Lifeline service providers will remain concerned about the audit and enforcement risks associated with providing Lifeline service.

IV. Service Providers Should Continue to Be Able to Facilitate Dispute Resolutions for Applicants in Real-Time at Enrollment

Under a National Verifier regime, Lifeline providers should continue to play an important role in the enrollment process through real-time, in-person dispute resolution where the National Verifier obtains a negative result during the third party identity verification (TPIV), address management system, or porting processes. Unfortunately, the Draft Plan envisions that after the National Verifier receives a negative result on one of these processes, the applicant must submit the relevant documents to the National Verifier by mail or web portal.³⁰ This would be overly

³⁰ See Draft Plan at 50.

burdensome for consumers and, as a result, unworkable in practice. Such a practice would be less efficient, less effective, less streamlined and more complex or burdensome on eligible consumers, which is contrary to the directive for the National Verifier in the Lifeline Modernization Order.

Many low-income Americans do not have private and secure access to a scanner, printer, or Internet connection necessary to upload relevant personal documents to the National Verifier or mail in proof of identity, address or other facts to facilitate a dispute resolution. As a result, these consumers would need use public resources at libraries or community centers to complete the enrollment process, potentially exposing sensitive personal information in a public setting. The risk is particularly high for less technically advanced users. Further, requiring users to leave the enrollment site, copy proof and submit it by mail also adds unnecessary burdens to the enrollment process, not least the cost of travel time, as well as envelopes and stamps. As USAC has discovered through its own experience with the recertification process, without the ability to leverage the Lifeline service providers' direct API connections to the NLAD (or in the future National Verifier), the response rate is demonstrably lower.

Today's process, by contrast, is far more efficient and respectful of the time and resources of low-income Americans. Under the current process, if an applicant receives an error message during enrollment, he or she can submit documentation—e.g., photo ID or proof of address change—in real-time using the service provider's technology, such as tablets that can take pictures of the proof to upload.

For these reasons, in preparing the Final Plan, the Commission should ensure that service providers have the ability to facilitate dispute resolutions for applicants in real-time at enrollment. The National Verifier would still conduct manual review and render a decision—

preserving the Commission’s interests in centralizing decision-making authority in the National Verifier—while making the process markedly safer and more efficient for low-income consumers.

V. The National Verifier Payment Process Must Allow for Corrections and Revisions

Under current processes, service providers often conduct back-end checks on their subscriber base between the end of each data month and the Form 497 submission deadline in order to account for any errors and ensure that the final submission is accurate. As a result of these checks, service providers may revise their subscriber totals upward or downward before submitting the Form 497. Further, service providers sometimes revise previously submitted Forms 497 downward or upward to account for errors or new information. In Slides 44 and 46 of the Draft Plan, it appears that USAC is poised to retain the ability to make corrections to the NLAD list prior to certification, but prohibit upward revisions after the snapshot certification, potentially depriving eligible customers and service providers of reimbursements.³¹ This would be particularly egregious where the error lies with USAC or a state administrator, rather than the service provider. As explained in more detail below, the Coalition urges USAC to permit service providers to make corrections and revisions to their reimbursement requests, including upward revisions in limited, appropriate circumstances.

First, USAC should ensure that service providers may revise their snapshot totals when they certify their subscriber totals. Slide 44 of the Draft Plan outlines a six-step process for calculating and disbursing subsidy payments to service providers.³² Step one requires service providers continually to update the NLAD to reflect an accurate record of all claimed subscribers. In step two, on the first day of each month, NLAD will make available in the

³¹ See *id.* at 44, 46.

³² See *id.* at 44.

service provider web portal a list of all subscribers served in the previous month. Step three requires an authorized service provider, later in the month, to certify to USAC (through the service provider web portal) that the service provider provided service in the last month to each subscriber on the NLAD list. If necessary, in step three, the service provider officer or authorized service provider agent may submit corrections before certification to USAC. The remaining steps outline internal USAC payment processes and post-disbursement review and corrections.

In the Final Plan, USAC should retain in step three ETCs' ability to correct the snapshot list at that point before certification. This process aligns with the way that service providers perform internal checks on their subscriber bases today, and helps to ensure that all eligible subscribers, but only eligible subscribers, are accounted for in monthly reimbursement requests. For example, in the event that a service provider errs by failing to de-enroll a subscriber whose 15-day non-usage grace period expires just after the snapshot date, the service provider should have the ability to correct the snapshot total to exclude that subscriber from the final reimbursement request if the error is discovered before the list is certified by the service provider.

In addition, the Final Plan should revise the process for revisions to permit service providers to make upward adjustments to reimbursement requests in limited circumstances. Slide 46 describes a three-step process service providers must use to review and submit revisions and corrections to prior payments.³³ Step one provides that on an ongoing basis, service providers must review and reconcile NLAD subscriber reports, USAC disbursement reports, and their own internal service and billing records. In step two, when necessary, service providers

³³ See *id.* at 46.

may submit corrections with appropriate justifications through the National Verifier; however, “in no case with a service provider revise upwards to claim payment for a subscriber not enrolled in NLAD during the period in question.” In a footnote to step two, USAC notes that “Service Providers can never claim payment for someone who was not on the ‘snapshot report’ for a given month.” Step three describes internal USAC monitoring of reviews and corrections to ensure compliance.

The Commission should revise step two to permit upward adjustments in limited circumstances involving errors outside of the service providers’ control and good faith service provider errors. For example, if a state administrator in a state that has opted out of the NLAD mistakenly uses an out-of-date snapshot (e.g., the previous month’s subscriber list), it may require the service providers to de-enroll eligible subscribers illegitimately and then re-enroll them when the error is discovered. If the de-enrollment period runs over a first-of-the-month snapshot, but the service provider provided service during the month, the error could unfairly deprive the service provider of a reimbursement for services provided. Similarly, there may be system errors that unfairly deprive service providers and their subscribers of reimbursements, such as if the NLAD fails to notify an ETC of a benefit port such that the ETC continues to serve the customer, or where the NLAD erroneously permits a benefit port during the port freeze period and the administrator fails to tell the original ETC to de-enroll.³⁴ In these types of situations, where the error lies with the Lifeline administrator rather than the service provider and there is no notice, USAC should ensure that service providers have the flexibility to seek upward adjustments. Moreover, there may be situations involving good faith errors in which a

³⁴ In any error where the NLAD removes a subscriber from a service provider’s list, but does not inform the service provider to de-enroll the result will be a lack of reimbursement where one should have been provided and should be correctable by upward revision.

service provider makes an administrative or clerical error that results in an undercount of its subscriber totals. There are also likely to be errors that will occur that we cannot anticipate at this time. In the Final Plan, USAC should not deprive service providers of the opportunity to account for these errors, as they do today.

Conclusion

The Lifeline Connects Coalition appreciates USAC's work to develop the Draft Plan, which contains many elements that will improve the Lifeline eligibility verification process for consumers and providers alike. The Coalition submits these comments to offer targeted suggestions to further improve the enrollment process to make it more efficient, more effective, more streamlined rather than more complex or burdensome on eligible consumers or Lifeline service providers.

The National Verifier must include real-time review of enrollments, including where manual review of proof of eligibility is necessary; should involve service providers early and often in the recertification process; should develop the Tribal address verification tool, but also include collection of the Tribal residency certification at enrollment and provide an explicit safe harbor for service providers, which should extend to all situations where the National Verifier or other third party entity is making eligibility determinations rather than the service providers (and USAC should cease wasteful and unnecessary service provider audits); must allow service providers to continue to be able to facilitate dispute resolutions for applicants in real-time at enrollment as they do today rather than requiring applicants to separately submit documentation by mail or web portal; must permit service providers to revise their snapshot totals when they certify their subscriber lists to USAC; and must afford service providers flexibility to make

corrections to their reimbursement requests, including upward adjustments in limited, appropriate circumstances.

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